IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Writ Petition No.6647 of 2006

Dr. (Miss) Sushma Rohidas Lokhande — Petitioner
Vs.
State of Maharashtra & ors. — Respondents

Mr.N.V.Bandiwadekar for petitioner.
Mrs.J.S.Pawar, AGP for Resp.nos.1 and 2.
Mr.Amit Sale for resp.nos.5 and 6.

CORAM: B.H.MARLAPALLE & J.H.BHATIA,JJ.

November 22, 2006.

P.C.

1. Heard Mr.Bandiwadekar, the learned counsel for the petitioner who came to be appointed for the first time on or about 16/3/2004 as a Lecturer under the respondent no. 6 - College on contract basis pursuant to the scheme announced by the State Government for such appointments. The respondent no.3 - University granted approval for her appointment on 10/6/2005 keeping in mind the Government Circular dated 23/1/2004. She obtained her Ph.D. degree on 15/12/2005. However, the respondent no.5 - Society discontinued her service on 31/1/2006 and, therefore, in this petition filed under Article 226 of the Constitution she prays for directions to appoint her as a full time Lecturer in Hindi subject under the respondent no. 6 - College

on regular and permanent basis with all consequential benefits. She further prays for a declaration that she is qualified and eligible for appointment as a full time Lecturer in Hindi in the Senior College.

2. There is no dispute that the petitioner does not possess the NET / SET qualifications as prescribed by the University Grants Commission (Minimum Qualifications required for the appointment and Career Advancement of Teachers in Universities and Institutions affiliated to it) Regulations, 2000. These Regulations came to be adopted by the Government of Mahrashtra by framing the Rules laying down these qualifications vide its G.R. dated 18th October 2001. Under the Regulations prescribed by the UGC in the year 2000, the educational qualification requirement was as under:

> "NET shall remain the compulsory requirement for appointment as Lecturer even for candidates having Ph.D. degree. However, the candidates who have completed M.Phil. degree or have submitted Ph.D. thesis in the concerned subject upto 31st December 1993 are exempted from appearing in the NET

examination"

. This requirement of qualification has been now amended by the UGC as per the Notification dated 14th June 2006 and the amended qualifications are as under:

> "NET shall remain compulsory requirement for appointment as Lecturer for those with post-graduate degree. However, the candidates having Ph.D. degree in the concerned subject are exempted from NET for P.G. level and U.G. level teaching. The candidates having M.Phil. degree in the concerned subject are exempted from NET for UG level teaching only."

3. It is now, therefore, clear that the petitioner holds the required qualifications for being appointed as a Lecturer in Hindi either to teach the postgraduate level or the undergraduate level students in Hindi subject. As on the day the respondent no.5 issued the termination order i.e. on 31/1/2006 the Notification amending the qualification

requirement was not issued by the UGC and such Notification has come for the first time on 14th June 2006. The exemption granted in the Regulations of 2000 for the Ph.D. holders was for those who had done so upto 31st December 1993 and the petitioner did not meet this requirement. Mr.Bandiwadekar, the learned counsel for the petitioner referred to the communication dated 31/5/2006 from the Department of Higher and Technical Education,Government Maharashtra and addressed to the Registrar of Swami Ramanand Tirtha Marathwada University at Nanded in support of his contentions that on obtaining the Ph.D. degree on 15/12/2005 the petitioner was required to be continued in service and absorbed as a regular Lecturer. It is not permissible to read this communication in contravention to the Rules prescribed by the State Government vide its G.R. dated 18/10/2001 and the Regulations of 2000 prescribed by the University Grants Commission. The petitioner has become eligible only pursuant to the Notification issued by the UGC on 14/6/2006 for being appointed as a Lecturer without her having the NET / SET qualifications.

4. In these circumstances the prayer of the

petitioner for directions to the respondents to absorb her as a regular Lecturer cannot be entertained. However, undoubtedly she is now eligible for being considered for the post of Lecturer in Hindi by the respondent no.5 or any other educational institution upto the undergraduate level or postgraduate level.

5. We are informed that the petitioner has appeared for an interview against a regular vacancy under the respondent no.5 - Society along with other qualified candidates and undoubtedly her case will have to be considered by the selection committee on the basis that she is a qualified candidate and her appointment by the respondent no.5 shall be subject to the recommendations of the selection committee.

6. The petition is, therefore, disposed in terms of the above clarifications.

(J.H.BHATIA,J.) (B.H.MARLAPALLE,J.)